



Statement by Senator Dianne Feinstein on  
Proposed Split of the Ninth Circuit Court of Appeals

November 4, 2005

**“A split of the Ninth Circuit Court of Appeals – the largest Circuit in the nation – on a budget bill is a huge mistake.**

**I very much regret that the House Budget Committee saw fit to take this unprecedented action. It comes during the period that the Senate Judiciary Committee has under consideration a number of proposals regarding the Circuit – and the review should be allowed to take its course.**

**If a split remains on the Conference Committee report when it comes back to the Senate, it will leave Senator Boxer and I with no other alternative but to raise a point of order, which would require supporters of the split to get 60 votes keep the measure in the bill.**

**In determining the fate of the Ninth Circuit, it is paramount that we proceed in a way that will be fair to all the states of the current circuit.**

**The House plan to split the Ninth Circuit would leave California and Hawaii with far more cases per judge than the states that would move into the new Twelfth Circuit. This would substantially disadvantage judges and the citizens they serve.”**

**Background:**

On Thursday, November 3, the House Budget Committee approved a proposal to break up the Ninth Circuit Court of Appeals as part of a \$53.9 billion package of mandatory spending cuts over five years.

The House proposal is part of a large budget reconciliation package moving forward through Congress under expedited procedures. It now goes to the House Rules Committee, chaired by Rep. David Dreier (R-Calif.). Earlier this week, Senator Feinstein wrote Representative Dreier urging him to oppose the plan. The Senate did not include the Ninth Circuit split in its version of the Reconciliation bill.

The proposal by the House Budget Committee would split the Ninth Circuit in two and create:

- A new Ninth Circuit, consisting of California, Hawaii, Guam, and the North Marianas Islands; and

- A new Twelfth Circuit, consisting of Arizona, Nevada, Idaho, Montana, Oregon, Washington, and Alaska.

This split would dramatically increase the caseload for the new Ninth Circuit. The new Ninth Circuit would keep 72% of the caseload of the current Ninth Circuit, but only 60% of the judges. The new Ninth Circuit would have an average of 536 cases per judge, while the Twelfth Circuit would have only 317 cases per judge.

The Administrative Office of the Courts estimated that such a split could cost as much as \$96 million in start up costs for the Twelfth circuit and \$16 million in annual operating expenses. Only 3 of the 24 active judges on the Ninth Circuit favor splitting the Circuit. Additionally, the state bar associations that have weighed in on the split -- Arizona, Washington, Montana, and Hawaii -- all oppose breaking up the Ninth Circuit.

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